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One Metropolitan Square, Suite 2600				ART UNIT
St. Louis, MO 63102				PAPER NUMBER
				3714
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			06/11/2010	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USpatents@armstrongteasdale.com

<b>Office Action Summary</b>		<b>Application No.</b>	<b>Applicant(s)</b>
10/668,560		BARTHOLOMEW ET AL.	
<b>Examiner</b>	Paul A. D'Agostino	<b>Art Unit</b>	3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 29 October 2009.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-6,8-38,40-73,75,76 and 78-92 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-6,8-38,40-73,75,76 and 78-92 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 22 September 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsman's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

This responds to Applicant's Arguments/Remarks filed 10/29/2009. Claims 1, 42 and 61 have been amended. Claims 23 and 58 are indicated as amended but the amended wording has not been conspicuously identified. Claims 7, 39, 74, and 77 stand cancelled. Claims 1-6, 8-38, 40-73, 75-76, and 78-92 are pending in this application.

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/29/2009 has been entered.

***Response to Amendments***

2. Applicant has amended Claims 42 and 61 clarifying their dependencies. Thus, the objection is withdrawn.

3. Applicant has not specifically addressed the rejection of Claims 1, 23, and 58 under 35 U.S.C. § 112, second paragraph (See Final Office Action filed 7/17/2009). However, to advance prosecution, from the arguments presented Examiner understands the claims to mean that if a bonus has not been awarded during a gaming

session the session indicator will indicate that a bonus session is active.

***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 58 recites both statutory and non-statutory subject matter by not limiting the computer-readable storage to non-transitory storage. Examiner recommends changing "computer-readable medium" to "non-transitory computer-readable medium". Other wordings are possible however the use of non-transitory as provided above shall overcome the rejection. Appropriate attention is required.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
8. Claims 1-6, 8-23, 25, 27-37, 42-43, 45-46, 48-49, 51-54, 57-58, 60, 62-72, 78, 80-81, 83-84, 86-89, and 92 are rejected under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 6,146,273 to Olsen (Olsen) of record in view of U.S. Patent No. 5,655,961 to Acres et al (Acres) of record and U.S. Patent Pub. No. 2003/0036418 to Seeling et al. (Seelig).

In Reference to Claims 1, 8-10, 18-23, 27-37, 39, 58, 60, and 62-72

Olsen discloses a system for awarding a random bonus award (Figs. 3A and 10-11 wherein eligible players enter a bonus mode time period (Col. 3 Lines 40-45 wherein eligible gaming machines are "locked in" to a bonus session (Col. 12 Lines 20-40 and Col. 13 Lines 60-62), comprising:

a gaming machine (Fig. 2 gaming machines 230 G1 to G<sub>k</sub>);

a set of bonus awards including at least two bonus awards including a first {second} non-default awards (Fig. 2 "Payouts 1" to "Payout J" 294), default award (Col. 24 Lines 40-45) and set of bonus awards are drawn from cash, credits, and non-monetary awards (Col. 17 Lines 5-15 and Col. 25 Lines 35-45);

a criterion dependent on at least one of a status of a player and an action of the player (Col. 3 Lines 60-65 wherein the player inputs a predetermined amount to make the machine "eligible" for the bonus game; "Eligibility can be based upon other conventional conditions at the gaming machine such as the insertion of a player tracking card, in which case eligibility is lost when the card is removed" Col. 12 Lines 48-52);

a session identifier (Fig. 2 "Bonus Mode Start" 248 wherein a detection of the condition begins the session wherein "Hence, at a bonus mode start all machines having player tracking cards inserted are eligible" Col. 12 Lines 50-55);

a player tracker database (implicitly disclosed as the gaming machine is able to read a player tracking card Col. 12 Lines 45-55);

a selector configured to select a bonus award at random from the set of bonus awards if the session identifier indicates that the bonus session is active (Fig. 2 "Payout Selector" 292 wherein "a randomly chosen bonus mode activation value or trigger 218 is also provided" Col. 6 Lines 55-58 and col. 11 Lines 13-16);

an awardee configured to deliver the selected bonus award to the player after the player meets the criterion (Fig. 2 "Pay Winner" 254 and Col. 1 Lines 40-45) which includes a graphical display (Fig. 9 "Display" 920 and Col. 21 Lines 1-5) including a single display or multiple displays (Col. 9 Lines 45-48) and wherein the bonus is

selected randomly (random bonus jackpots are made during the bonus time period. (Col. 3 Lines 40-48); and

a computer readable medium and a program configured to carry out the steps of the method (Olsen discloses known programming Col. 5 Lines 39-52 and "In the preferred embodiment, the controller 200 is programmed and these functions exist in associated memory." Col. 7 Lines 1-3).

Olsen is not explicit on the network interface to a player tracking system or indicating if a bonus session is active based on whether or not the player received a bonus award from the set of bonus awards during a session.

Acres teaches of a system and method for operating networked gaming devices (Title and Fig. 34) wherein Acres teaches activating and deactivating bonus sessions within individual gaming machines and determining if a bonus session is active for each gaming machine and if criteria is met, turning on the bonus e.g. a bonus pay table (Fig. 34). Acres also discloses known player tracking and tracking databases in which each transaction, whether it be a coin in, a handle pull, etc., is recorded by the system (Col. 3 Lines 13-37) and the tracking of bonus events and payouts "when certain conditions are met" (Col. 6 Lines 48-57), comprising a session identifier configured to indicate if a bonus session is active based on whether or not the player received a bonus award from the set of bonus awards during a session (Acres operates off of a set of reconfiguration commands that activate a bonus payout table Col. 9 Lines 63-67) in conjunction with a player tracking module 44 (Col. 11 Lines 10-30) via a floor controller. "The floor controller is responsible for monitoring the activity of each of the gaming

devices connected thereto and reporting this activity to the database 32..."the floor controller is responsible for transmitting a reconfiguration command to a selected one or more of the gaming devices during certain bonus conditions (Col. 18 Lines 57-67). The system has "the ability to record how long each player spends at each machine and the number of coins won, games played, and hand jackpots won by each player. All this information is stored on the database, which can later be analyzed for future-targeted direct mail campaigns (Col. 20 Lines 22-34) such that "the floor controllers are responsible for activating or deactivating the bonusing for the individual machines" (Col. 37 Lines 30-32). Further, "Some games or promotions require the player to reach a certain level of activity in order to be eligible for certain bonus points. These countdown counts are used to determine whether the player has achieved this level of activity....If the countdown count is active, the DCN adjusts the current players count down values in step 284 based on the corresponding adjustment of the associated meter" (Col. 22 Lines 31-46). Thus, Acres records all transactions in a player tracker database wherein the session identifier which indicates an active bonus session is the recordation of the transpiring of a countdown to an active state. Note: Applicant claims a session is indicated as active "whether or not the player receives a bonus award from the set of bonus awards during a session". Examiner reasonably interprets this limitation to mean a) that the active status is independent of whether the player previously won a bonus and b) that if a bonus was awarded the bonus is inactive. In either case, these situations are covered by the countdown count of Acres (Col. 28 Lines 23-36 wherein player tracking begins to determine if a player has received new points and if no new

points have been awarded than a countdown message is initiated activating a bonus session (Col. 28 Lines 23-36 and Col. 31 Lines 31-39). Acres provides this system and method in order to provide "a more flexible bonusing system whereby any of the casino's machines can participate in the bonusing" (Col. 2 Lines 27-29).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the player tracking database and bonus activation as taught by Acres into the teachings of Olsen in order to provide "a more flexible bonusing system whereby any of the casino's machines can participate in the bonusing" (Col. 2 Lines 27-29).

Seeling also concerns bonus gaming systems (Title) and teaches that in addition to qualifying for a bonus award (Fig. 3 Steps 50-59) wherein the gaming operator establishes a predetermined limit on the number of bonus games played by a player in a gaming session [0041]. Examiner interprets the number of bonus games to be at least one wherein the casino may opt to enhance existing games that will attract more and longer play by enhancing the entertainment and excitement of the gaming experience [0006] yet limit the number of bonus games that can be played [0014] to optimize casino cost and profitability.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the predetermined limit as taught by Seeling into the teachings of Olsen as modified by the player tracking of Acres in order to provide bonus eligibility for players yet limit the number of bonuses for financial reasons.

In Reference to Claims 2-6, 25, and 60

Olsen as modified by Acres discloses a player identifier (Col. 12 Lines 45-55); a card reader (implicitly disclosed wherein "Hence, at bonus mode start all machines having player tracking cards inserted are eligible" Col. 12 Lines 45-55); and wherein the selector is configured to select the bonus award after the player is identified by the player identifier (Col. 12 Lines 45-55).

In Reference to Claims 11-17

Olsen as modified by Acres and Seeling discloses an awarded that includes text ("messages" Col. 9 Lines 52-63); audio messages and speakers ("sounding alarms" Col. 9 Lines 52-63) and "machine announces" of Col. 24 Lines 45-62); a bonus server (Fig. 2 200), criterion selector (Fig. 2 262, 292, and a network (Fig. 2 230); an identifier if the bonus is active and the selector is operative only if the bonus is active (Col. 3 Lines 40-45, and Col. 22 Lines 30-35); a player tracking database connected to the network (Col. 12 Lines 45-55); and means for accessing the player tracker database (Col. 12 Lines 45-55).

In Reference to Claims 42-43, 45-46 and 78, 80-81

Olsen as modified by Acres and Seelig discloses wherein awarding the selected bonus award to the player includes awarding the selected bonus award to the player if the bonus session is active (Col. 21, Lines 35-50); wherein awarding includes: receiving a message about the selected bonus award at a gaming machine in use by the player

(Col. 9, Lines 40-60); verifying at the gaming machine that the player still satisfies the criterion and awarding the selected bonus award to the player by the gaming machine if the gaming machine verifies that the player still meets the criterion for the bonus award (Col. 11, Lines 55-60; Col. 12, Lines 1- 55); wherein awarding the selected bonus award to the player includes notifying the player of the selected bonus award (Col. 9, Lines 40-60); and wherein notifying the player of the selected bonus award includes displaying a text message to the user (Col. 9, Lines 40- 60).

In Reference to Claims 48-49, 51-54, 57, 83-84, 86-89, and 92

Olsen as modified by Acres and Seelig discloses presenting an audio announcement (Col. 9, Lines 40-60); video announcement (Col. 9, Lines 40-60); wherein presenting a video announcement includes presenting an audio announcement (Col. 9, Lines 40-60); wherein presenting a video announcement includes presenting the video announcement on a primary display of the gaming machine (Col. 9, Lines 40-60); wherein presenting a video announcement includes presenting the video announcement on a secondary display of the gaming machine (Col. 9, Lines 40-60); wherein notifying the player of the selected bonus award includes notifying the player of the selected bonus award if the selected bonus award is anything other than a default award of nothing (Claim 24(d)); and further comprising expiring the selected bonus award for the player if a condition is met, the condition drawn from a set including: a time limit; an arrival of an end of the bonus session; and the player ending play (Col. 12, Lines 45-55; Col. 24, Lines 30-40).

9. Claims 24, 26, 38, 40-41, 44, 47, 55-56, 59, 61, 73, 75-76, 79, 82, and 90-91 are rejected under 35 U.S.C. 103(a) as obvious over Olsen in view of Acres and Seelig further in view of U.S. Patent Pub. No. 2002/0187834 to Rowe et al. (Rowe) of record.

In Reference to Claims 24, 26, 38, 59, 61, and 73

Olsen as modified by Acres and Seelig discloses a system substantially equivalent to Applicant's claimed invention wherein identifying a criterion includes identifying the criterion drawn from a set including: an account of the player in a player tracking database is flagged (Col. 12, Lines 45-55); the player has played a minimum amount of coin-in (Col. 3, Lines 60-65); and the player has a minimum amount of continuous play (Col. 11, lines 50-55). However, Olsen fails to disclose play for a minimum amount of time; the player has achieved a combination of positive gaming machine outcomes; the player has a minimum number of handlers per trip; and the player has a minimum number of handles per unit time; selecting a bonus award includes selecting the bonus award after the player is identified; awarding the selected bonus award includes awarding the selected .bonus award to the player before the player has begun to play the gaming machine; and further comprising awarding a consolation award to a second player.

Rowe teaches of a system for monitoring game play (Title) wherein bonus criterion is for a minimum amount of time ([ 0124]); the player has achieved a combination of positive gaming machine outcomes ([0124]); the player has a minimum number of handlers per trip or per unit time ([0124]). Further, Rowe teaches of selecting

the bonus award after the player is identified; and awarding the selected bonus award includes awarding the selected bonus award to the player before the player has begun to play the gaming machine ([0129]); and of awarding a consolation award to a second player ([0129]). Rowe provides this system and method in order to a) attract players to gaming machines that are not being played, b) give the player an incentive to stay longer and make more wagers, and c) prevent the player from feeling bad about not winning an award thereby giving the player an incentive to still play the gaming machine.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the limitations as taught by Rowe into the teachings of Olsen as modified by Acres and Seelig in order to provide a) attract players to gaming machines that are not being played, b) give the player an incentive to stay longer and make more wagers, and c) prevent the player from feeling bad about not winning an award thereby giving the player an incentive to still play the gaming machine.

In Reference to Claims 40-41, 44, 75-76, and 79

Olsen as modified by Acres and Seelig discloses a system substantially equivalent to Applicant's claimed invention wherein identifying a bonus award includes selecting the bonus award at random from a set of bonus awards associated with the bonus session for the type of gaming machine (292, Fig.2; Col.1, Lines 40-45). However, Olsen fails to disclose wherein determining that a bonus session is active includes: determining a type of a gaming machine being used by the player; and

determining that a bonus session is active for the type of the gaming machine; wherein returning the selected bonus award to the set of bonus awards if the gaming machine fails to verify that the player still meets the criterion for the bonus award; and further comprising returning the selected bonus award to the set of bonus awards if the gaming machine fails to verify that the player still meets the criterion for the bonus award.

Rowe discloses wherein determining that a bonus session is active includes: determining a type of a gaming machine being used by the player; and determining that a bonus session is active for the type of the gaming machine ([0010]); wherein returning the selected bonus award to the set of bonus awards if the gaming machine fails to verify that the player still meets the criterion for the bonus award ([0123]); and further comprising returning the selected bonus award to the set of bonus awards if the gaming machine fails to verify that the player still meets the criterion for the bonus award ([0123]). While Rowe does not state that an award is returned, it would have been obvious to one of ordinary skill in the art at the time the invention was made to return the award if the player does not match the criteria in order to prevent the award from being given to an incorrect player).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the aforementioned limitations of Rowe into the invention of Olsen as modified by Acres and Seelig in order to promote certain types of gaming machines.

In Reference to Claims 47, 55-56, 82, and 90-91

Olsen as modified by Acres and Seelig discloses a system substantially equivalent to Applicant's claimed invention. However, Olsen as modified by Acres and Seelig fails to disclose wherein displaying a text message includes displaying the selected bonus award in the text message; and identifying the player as having received the selected bonus award including identifying the player in a player tracking database as having received the selected bonus award.

Rowe discloses wherein displaying a text message includes displaying the selected bonus award in the text message ([0128]); and identifying the player as having received the selected bonus award including identifying the player in a player tracking database as having received the selected bonus award ([0005], [0121]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the limitations as taught by Rowe into the invention of Olsen as modified by Acres and Seelig in order to provide the player and nearby players with information as to the amount of the award and to keep track of the number of awards provided to players.

10. Claims 50 and 85 are rejected under 35 U.S.C. 103(a) as obvious over Olsen in view of Acres and Seelig further in view of U.S. Patent Pub. No. 200210042294 to Pau (Pau) of record.

Olsen discloses a system substantially equivalent to Applicant's claimed

invention. However, Olsen as modified by Acres and Seelig fails to disclose wherein presenting a video announcement includes simulating the random selection of the selected bonus award.

Pau discloses wherein presenting a video announcement includes simulating the random selection of the selected bonus award (Claim 14).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the limitation as taught by Pau into the teachings of Olsen as modified by Acres and Seelig in order to create excitement for the player as the random award is being selected.

#### ***Response to Arguments***

11. Applicant's arguments (see Applicant's Arguments/Remarks pages 15-24) with respect to Claims 1, 23, and 58 and their dependent claims have been considered but are moot in view of the new ground(s) of rejection. Applicant arguments focus on the asserted absence of a networked player tracking system and the criterion of bonus eligibility which have been addressed as part of the rejection of the claims. Thus, the rejection of the claims is maintained.

#### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is provided in the Notice of References Cited.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. D'Agostino whose telephone number is (571) 270-1992. The examiner can normally be reached on Monday - Friday, 7:30 a.m. - 5:00 p.m..
14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Paul A. D'Agostino/  
Examiner, Art Unit 3714